THE NEW YORK HERALD.

Vol. IX.—No. 106.—Whole No. 3319.

NEW YORK, TUESDAY MORNING, APRIL 18, 1843.

Price Two Cents.

To the Public.

THE NEW YORK HERALD—daily newspaper—published every day of the year except New Year's day and Fourth of July. Price 2 cents per copy—or $7 26 per annum—postages paid—cash in advance.

THE WEEKLY HERALD—published every Saturday morning—price 6¼ cents per copy, or $3 12 per annum—postages paid—cash in advance.

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JAMES GORDON BENNETT,
PROPRIETOR OF THE HERALD ESTABLISHMENT,
Northwest corner of Fulton and Nassau streets.

Albany.

[Correspondence of the Herald.]

ALBANY, April 14, 1842.

Gov. Bouck—His High Character—His Slanderers, Disappointed Office Seekers.

MR. BENNETT:—

Believing you to be an honest and independent editor, and desirous of knowing the truth, I am tempted to notice the aspersions of your Albany correspondent. He is known here to be a disappointed office seeker. Since he could not obtain office by fawning, he is determined to show the venom of his heart by throwing mud upon the spotless character of the Governor.

The "Schoharie Farmer" is an honest man, and independent of all *cliques*. This renders him peculiarly obnoxious to office-seekers, for they live and thrive under the reeking vegetation of cliquish influences. The Governor is willing to hear their claims patiently, and decide honorably, but this does not suit these vermin; they want to creep up on the legs of others, and this our honest Governor will not tolerate. If offices are to be filled, he is determined that each shall stand on his own merit, and this is the policy a Governor of New York should ever pursue.

We have great times here. The "Barnburners," alias "Subterraneans," have united with the whigs for the rejection of some of the Governor's democratic nominations, and for the purpose of destroying the office of State Printer, under the impression that it will annoy the Governor, and weaken his influence; poor children! they will find they can no more stop the ball of the Governor's popularity than the fly could stop the progress of the coach wheel. Father Hunter heads the Subterraneans in the Senate. They are tickling his vanity with the idea of making him Governor in 1844. "Think of that, Master Brooks." In the mean time, certain men are using him to promote their own purposes. He does not see that they intend to hoodwink him. He is old, and it is natural he should begin to lean on others. Senator Ruger is the light house of the Subterraneans. Of himself he is quite a menagerie. He has been exhibiting himself recently in the rejection of certain democrats of Jefferson County. The Secretary of State is in a rage since the last shot from the Lieutenant Governor. Col. Young is preparing his cannon now, but there is danger if he loads his piece too heavy, it will kick over and wound, or perhaps kill, the engineer. Dickinson's last letter is a terrible piece of invective, seldom excelled in the English language. He flays his opponent alive. Col Young has for once met his match in biting sarcasm, and it appears to be the impression that he will regret that he provoked this controversy. In the mean time both whigs and democrats look on with glee, thinking it a very pretty exhibition of literary pugilism.

Your representatives have been distinguishing themselves—particularly Mr. McMurray; but I can vouch for the fact that he was ill, and this febrile excitement caused him to lose the balance he would have preserved had he been in good health.

Mr. White of your delegation, is a very fine young man, and the ladies think him "a love of a man." Mr. Pentz is a practical legislator, and much respected. He has the State prison bill under his wing, and if any thing can be done for the mechanic interests, he will never tire.

"Benighted Schoharie" is well represented this year. She has a Governor, a Senator, and an Adjutant General, either of whom would do credit to any county in the State. ARISTIDES.

FROM THE NORTH.—We have received Albany papers of Saturday evening. They came down with Pomeroy & Co.

LEGISLATIVE PROCEEDINGS.—The bill changing the mode of appointing Bank Commissioners, which was the subject of a three week's angry debate in the Assembly, was unanimously reported against in the Senate on Friday.

The Senate bill increasing the revenues of the State by extending the market for salt, &c., passed the House the same day by a vote of 65 to 31. An appeal against the decision lays on the table.

Mr. Faulkner's bill has passed the House without amendment. The decision of the Speaker, declaring it a majority bill, was sustained by a vote of 54 to 40.

The bill for the payment of contractors on the suspended public works was ordered engrossed for a third reading on Friday night by a vote of 51 to 17. The previous question cut off a vote on the amendment of Mr Flagler authorising the canal commissioners, if it be for the interest of the State, to complete any portion of the work now under contract, than pay damages for abandoning the contract.—*Albany Adv April 15.*

TOLL ON PASSENGERS.—We learn that the Canal Board have adjusted the commutation of toll payable on passengers carried on board of freight boats in reference to the toll on the passenger.

The toll payable on each person over ten years of age, is fixed by the rates of toll at one mill per mile.—*Albany Argus, April 15.*

NAVIGATION AND FRESHETS.—The river is high opposite this city and rising. The Mohawk appears to be breaking up, and the Hudson is filled with floating ice. There is a heavy fog on the river, with occasional rain, and no boat has reached this city to-day up to three o'clock.

Such has been the thickness of the ice on some parts of Lake Champlain, that it is said the navigation will not be free at all points of the lake before the 1st of May.—*Albany Journal April 15.*

FRESHETS AT THE SOUTH.—The recent rains have caused several freshets at the south. Following are the particulars:—

FRESHET IN THE POTOMAC.—The Georgetown Advocate of Saturday says in a postscript—"The river here is now very full, and the current strong. The wharves this morning are generally overflowed. By the accounts from Cumberland it may be expected to be much higher here yet, and the merchants on the wharves are removing the goods from their cellars in anticipation of a heavy freshet."

GREAT FRESHET AT CUMBERLAND.—By last night's train from Cumberland, we received the following letter:—

"CUMBERLAND, April 14, 7, A. M.—This town is overflowed by one of the greatest freshets we ever experienced, and the Potomac river is still rising, caused by the melting of the large quantities of snow on the mountains, brought down upon us suddenly by a heavy fall of rain. All is in confusion—people are being taken out of their houses by boats."

FRESHET IN THE DELAWARE.—There was quite a large freshet in the Delaware yesterday, and the river was full of floating ice, drift wood, trees and shutes. The wharves up town were overflowed.—*Phila. Times.*

MOST ATROCIOUS MURDER IN HARRISBURG.—Murders are rapidly increasing in number and atrocity in this country. Who can read the following without a shudder?

[From the U. S. Gazette, April 17.]

Harrisburg has been thrown into a high degree of excitement, by intelligence of a most unparalleled murder committed in that neighbourhood, in broad day light. A young man named Pottimer, who resided with his aged parents about 2½ miles from this place, near the Jonestown Road, came into town after breakfast, with some marketing, and after disposing of the same, returned home about 11 o'clock, and on entering the house found his father, who is aged about 72 years, lying just inside the door, his head cruelly bruised and mangled, but not quite dead. He spoke to him and received for reply; "what is this you are doing to me," or to that effect (in German.) The son bolstered him up, but he was too far gone to give any account of the diabolical deed, and soon expired. But what was the horror of the son upon looking in a more obscure part of the chamber, when he beheld his mother, lying dead upon the floor, her head literally cleft in pieces, and her brains scattered over the apartment! The fiend, or fiends, who perpetrated the deed, must have been surprised in the midst of their hellish purpose, by the arrival of the son, and made their escape. One of the neighbors who was going into town, saw the old man turning his cows out of the stable about ten o'clock, and proceeding met the son returning from town. The murder therefore must have been committed whilst the son was travelling the distance of about two miles. The old man was born in the house and had lived there all the days of his life. They were plain frugal people, much respected by their neighbors, and had saved a little money. The assassins got but about $20 by the act, being surprised probably before they had time to sack the drawers—there being some gold untouched in the very place where they found the $20 referred to. The murder was committed with a stick of stove wood after repeated blows. The officers are in the pursuit of several suspected individuals, and it is said that a couple of men have been arrested near Carlisle, under suspicious circumstances. The account given by the son, who is somewhat addicted to intemperance, and was a little disguised this morning, is somewhat contradictory. The old lady was his step mother.

On a Late Acquittal.—[McNaughton's.]

BY T. CAMPBELL.

(From an English paper.)

Ye people of England! exult and be glad,
For ye're now at the will of the merciless mad,
Why say ye that but three authorities reign—
Crown, Commons, and Lords?—You omit the insane!
They're a privileg'd class, whom no statute controls,
And their murderous charter exists in their souls.
Do they wish to spill blood—they have only to play
A few pranks—get asylum'd a month and a day—
Then heigh! to escape from the mad doctor's keys,
And to pistol or stab whomsoever they please.
Now, the dog has a human-like wit—in creation
He resembles most nearly our own generation:
Then if madmen for murder escape with impunity,
Why deny a poor dog the same noble immunity?
So, if dog or man bite you, beware being nettled,
For crime is no crime—when the mind is unsettled.

U. S. Circuit Court.

Present Judge Thompson.

APRIL 14.—*Norris vs. Stevens.*—In this case we lay before our readers a verbatim report of the charge delivered by Judge Thompson on Friday last. It is a subject of deep interest to the citizens of New York. Although Mr. Stevens is the defendant on record, the Water Commissioners are the real defendants in the cause. It was stated by Messrs. Graham and Foot, the counsel for the Commissioners, that their principal object in testing Mr. Norris's right under his patent was to break down his monopoly and to save the citizens the difference between the price ($2,50) for each lap which Mr. Norris will charge for the use of his machine for boring and lapping the Croton water pipes, and the price (one dollar) which Mr. Allen's machine, which was constructed at the instance of the Commissioners, would cost:—

GENTLEMEN:—

This case is somewhat important to the parties immediately interested; it is also important to the public generally. It therefore requires a great degree of deliberation, not only from the Court but from you—it is an important case as regards patent rights generally. Gentlemen, this case is divided into two branches, the one of law and the other of fact; and so far as respects all questions of law they are under the control of the Court; and the remarks which I shall make upon that branch of the case will be addressed more to counsel than to you. The first objection to the patent is that it does not appear in evidence that the second patent has grown out of any mistake or error in the first, but it is contended that it is an enlargement of the first patent, and covers a new invention not embraced by the first patent. When an error or mistake is made in the first patent, the parties claiming to rectify that mistake are bound to show that it occurred through accident and not through fraud; and to enable them to do so enquiries should be made in the office of the Secretary of State, or the Commissioner of patents at Washington, and should be made before the enquiries in this Court were commenced, but with those enquiries this Court have now nothing to do. Gentlemen, it is necessary that all the requirements contemplated by the statute relating to patent rights, should be fully complied with, but that statute is only directory to the Commissioner of Patents; but still he is bound before he issues a second patent, to see that the requirements of the law were complied with. If he be satisfied that they are, and issues the patent, then it is conclusive on Courts of law, and the second patent shall have the same effect as if incorporated in the first patent; but in this case the law, as laid down by defendant's counsel, would present a most singular state of facts. Let us suppose a case—the Commissioner of Patents issues a second patent without seeing that the requirements of law have been complied with. In such a case the consequence would be that the patentee would be cut out from all rights under both patents, the Commissioner would cancel the first patent, and this Court would cancel the second. Congress never intended to make such a law; but where there is a variance between the first and second patent the party is bound to show that it was a mistake, and that no fraud was intended; but in this case it has been said that the second patent enlarged the first, and covered new ground, not embraced in the former patent; in this case I do not think the patentee has gone that length. It appears to me that his object in taking out the second patent was to correct and not enlarge the specification in the first patent. Gentlemen, in the specification of a patent the patentee is bound to give such a description of his invention as to enable the public to avail themselves of that invention—and that he himself might have the full benefit to accrue from the patent. To define what the patentee claims and to preserve it to him, is the use and object of a specification. If it be found that there are errors in the specification of the first patent, the patentee has a right to take out a second patent; but the second patent can only correct the errors in the specification of the first. There can be no enlargement of the right. If the patentee has improved his invention, he cannot include the new improvements in the second patent; for those he must take out a new patent, and before he does so, the old patent must be annulled. I do not think that in this case there is any enlargement of the rights granted by the first patent. The description in both patents are the same in terms. The machine is the same under the first patent that it is in the second patent. It is the same identical machine described in both these patents. It was exhibited for the purpose of testing its operations. Those exhibitions which were made in pursuance of the Act of 1793, may be considered as a dedication of the invention to the public. They were made in 1841, and up to the 11th of June no improvements were made or attempted; but it is contended that in the fall of 1841, the machine was exhibited, and then it appeared for the first time that it was enlarged and new improvements made. I have examined the specifications in both patents, and it does not appear to me that the specification in the second patent enlarges, or professes to cover any new improvement, but only to correct the want of precision in the first specification. Under the first patent, it is contended that the chamber was a constituent part of the machine; and it was therefore the object of the patentee to secure that part of his invention. If he did not secure it, so far as regarded his patent right it was lost; and if there was any omission in the 1st specification of the enlargement of the chamber and the combination of the several parts as connected with the chamber, he had a right to correct that omission in the first patent. The second specification connects all the other parts of the machine with the chamber; and to secure the connexion of those several parts he goes on further and claims the several parts connected with the improvement of the chamber, that is, the drill and ferrelet; by this he must have meant to secure those separate parts, together with the chamber, and thus he has enlarged his specification, which he has a right to do, but he has not enlarged his patent. A patentee has a right to apply to the patent office and take out a new patent, in which he may correct any error or omission in the first patent; and he is entitled to his remedy so far as his real invention is violated, and he has a right to come into this court, and if he can show there is a violation of his rights, he is entitled to recover for it. An invention consists in a combination of parts to produce a useful result—a result not known before, and which is useful to the public, and no man is entitled to violate his right to this invention. If a patentee claims more than his patent covers, he has no right to recover for that which is not embraced in his patent; but no man has a right to violate the patent right of another, because he claims more than his patent covers. The first man has a right to enjoy his improvement, but if he claims any thing beyond that, he has no legal right to it, and it is thrown open to the public. Mr. Allen, the officer of the Water Commissioners, claims an improvement upon Norris's machine. Allen's machine is worked by a lever, Norris's by hand. If the working by a lever is a new invention, and not growing out of Norris's, Mr. Allen is entitled to the benefit of it, but if upon an inspection of Norris's machine Mr. Allen saw fit to adopt a lever instead of a hand, it does not seem to me to be a new invention, or an improvement on Norris's machine. Gentlemen, I have now disposed of the law of the case, and the question of fact arises. That is, whether a violation of Norris's right to the invention of his machine, has taken place, or not. To arrive at a satisfactory conclusion upon this point it is necessary to see what are the component parts of both machines. The combination of the principal parts of both machines consist in a chamber valve drill and ferrelet? for the purpose of reaming off and stopping the water from flowing out of the hole in the pipe in which the cock is to be inserted. I cautioned you already against paying too much attention to what has been said upon the object of the parties in bringing this question before the court. But in all cases where a party comes into court to protect or enforce his patent rights, you have in all cases a right to enquire what the object of his patent is, and what he seeks to protect or enforce. Then what is the object here? it is to stop the water. The machine is fixed for the purpose of connecting it with the—pipes. That is the object, and in it consists the sole merit of the machine. The witnesses all say that this is the object of the chamber, but one of them says it is accomplished more perfectly by one machine than the other; but they are both constructed on the same principle—composed of the same parts. Mr. Allen's machine dispenses with none of the parts that compose Norris's machine; they both consist of the drill, the ferrelet and valve; the only difference is, Allen's is worked by a lever and Norris' by hand. In Allen's the stopper is called a thumb—in Norris' it is called a valve, but this is only a change of name; Allen's operates to stop water, the same object is accomplished by Norris' valve; it is no matter whether it is called a valve, or a thumb, or stopper, the object of both is to stop the flow of water; they both act in the same way and produce the same effect. It does not strike me there is any variance. Norris' machine accomplishes the same object; it is new and useful; the witnesses tell you that up to 1841 they never heard of such a thing either in Europe or this country, or any where else; therefore you must conclude that it is new; they have accurately described it both in principle and detail, and the wonder in my mind is that, from its simplicity, it was not discovered before; but that does not detract from its merit nor prevent it from being a new invention, and if Mr. Norris is entitled at all he is entitled to the full benefit of it. In all cases it mostly happens that witnesses are more likely to form their judgments and conclusions from the outward form of machinery, than from the principles upon which they are constructed, or the results produced by those principles. It is very true that two machines that perform the same operation and produce the same effects, are often very dissimilar in their external appearance—one may be worked by a lever and another by a screw. It is true, however, as an abstract proposition, that a lever is not a screw; yet they both produce the same results. The case before us is an illustration of this principle. Allen's machine is worked by a lever, Norris's by the naked hand, and the same purpose is effected by both. You must not, therefore, form your judgment from the external form of those machines, but from the principles upon which they are constructed, and by which they are moved and governed in their operations, and in the results which they produce. Here his Honor reviewed the authorities cited by counsel on both sides, and also referred to some authorities not cited by counsel, particularly to a case decided by Judge Washington, which his Honor said was directly in point. He continued to say that what constitutes a new invention or an improvement in an invention is often a nice question to decide, and the persons who are to decide are apt to disagree, and this very case is an illustration of that rule. The objects of both parties was the same, and the results produced by both were to stop the water from flowing out of the pipe. There was no other object. You are to look and see if Mr. Allen has applied any thing in substance to the improvement of Norris' machine; if so he has a right to the benefit of it; but in doing so, you are not to look to mere forms. It is admitted by all that the object of Allen was the same as that of Norris. I do not think the Water Commissioners acted improperly in bringing this question before the Court. They did so to guard against the extravagance of Norris, and it was right for them to do it. It was not done to vitiate his patent, but to guard against his monopoly, and to save the citizens from extortion if it should be attempted. In weighing the evidence, you are not to decide according to numbers, but according to the skill and intelligence of the witnesses. Gentlemen, if from all the facts and evidence brought before you in this case, you are of opinion that Mr. Allen's machine does not embrace any part of the invention of Mr. Norris, you should find for the defendant; but if you think Mr. Allen has embraced any part of it, it is a violation of Norris' patent, and he is entitled to recover for the violation.

The jury returned a verdict for the plaintiff—$25 damages.

Superior Court.

Present Judge Vanderpoel.

APRIL 17—*John E. Devlin vs William S. Deverna.*—This was an action to recover $100, the balance of an account for goods sold and delivered. The plaintiff sold to the defendant fifty barrels of flour for the South American market, for which he was paid except the above balance; and for this Mr. Deverna gave plaintiff a draft on a person of the name of Warner, payable on demand. Warner refused to accept the draft, he having no funds of defendant. The plaintiff declared for goods sold and delivered, and added the common counts, to embrace the draft if necessary. The defendant pleaded the general issue, under which he gave evidence of want of notice of nonpayment of the draft and latches on the part of defendant. His honor charged the jury, that this was an action brought by plaintiff against defendant for goods sold and delivered. He said there was no dispute about the sale, and the account of the sale was partially settled and liquidated, except this $100. His honor reviewed the law relating to bills of exchange and promissory notes at considerable length, and concluded by telling them that if there was any doubt of the plaintiff's right to recover on the common counts which embraced the note, in his opinion he was entitled to recover on the other counts of the declaration. The jury found in accordance with his honor's charge.

Messrs. Cowles and Sturtevant conducted plaintiff's case, and Mr. Russel appeared for defendant.

United States Circuit Court

This court did not sit yesterday. It will sit this day, and the cause of the United States vs. Hoyt, will be proceeded with.

General Sessions.

Before Recorder Tallmadge, and Aldermen Leonard and Purdy.

J. W. STRANG Acting District Attorney.

APRIL 17.—At the opening of the court the counsel for Jacob and Abraham Gunst moved that their cause be postponed until the next term, on the ground that their conscientious scruples were such that they could not attend during the present term, as it was the Passover. The court allowed the case to go off till the May term.

FINED.—Sixteen absent petit jurors were fined $5 each, and eight officers the amount of their pay for the day.

GRAND LARCENY.—Joseph Murray, John Wilkins and George Wellesly were tried on a charge of Grand Larceny, in stealing the pocket book of Bishop Griswold, containing $105, on the 6th of October last, while on his passage from Boston to this city. The indictment charges the money to be stolen from Archibald V. Griswold, and the proof went to show that it had been taken from Alexander V. Griswold. The Court therefore charged that under the indictment the Jury were compelled to acquit the prisoners, which they did.

GRAND LARCENY.—Isaac Adams, alias John M. Shaw, was tried on a charge of Grand Larceny, for taking $300 from Horatio N Otis, of 168 Duane street, but now of Connecticut. It appeared in evidence that Otis advertised for a partner in business, when he received a letter from some person signing himself John M. Shaw, who afterwards called upon him. That they then agreed to purchase out the stock of the grocery store of Andrew Brombush, corner of Varick and Broome streets, and on the 15th of February, previous to proceeding to a lawyer's office to settle the lease, Shaw obtained from Otis the sum of $300, being his share of the money to be advanced, as agreed upon. Instead of paying over the money to Mr. Brombush, Shaw, who was afterwards proved to be Isaac Adams, ran off with the money, and kept out of the way until he was arrested. The indictment, charging the money as stolen from Horation N. Otis, instead of Horatio, was fatal, and the Court charged the Jury that under it they were bound to acquit the prisoner. He was then ordered to be recommitted to prison until a new indictment could be prepared by the present Grand Jury.

A NOLLE PROSEQUI was entered in the case of Philetus Fox, on a charge of obtaining gold lever watches, valued at $759, under false pretences, from Savage, Crosby and Co., 37 Liberty street. This was done at the request of the complainants, they having been since satisfied with the explanation made by Fox, he having most probably settled the bill.

PILOT CASE.—Owen Prescott was tried on a charge of misdemeanor, in violating the Pilot laws of this State, by piloting the schooner Thomas Cribben through Hurl Gate, on the 10th of October last, and the brig Raymond, on the 29th of July last. Charles W. Sheffield, a Hurl Gate pilot, testified that he saw Prescott on board the brig Raymond, on the 29th of June, and received half pilotage from the captain, and left the vessel in charge of Prescott. Thomas A. Harris, another Hurl Gate pilot, testified that Prescott piloted the schooner Thomas Cribben through the Gate on the 10th of Oct. The defence contended that the case was not fully proved in the instance of the brig Raymond, and that there was no positive evidence that the accused was the pilot of the Thomas Cribben, but merely that he was on board the vessel, acting as an assistant to the captain. The Jury, after an absence of nearly an hour, returned into Court with a verdict of guilty, and the accused was requested to attend on Friday next.

The Court then adjourned till this morning, at eleven o'clock.